REMARKS

This is a full and timely response to the outstanding Final Office Action mailed August 20, 2005. Upon entry of the amendments in this response, claims 1 – 25, 27 – 36 remain pending. In particular, Applicants add claims 36, amend claims 1 and 19, and cancel claim 26 without prejudice, waiver, or disclaimer. Applicants cancel claims 26 merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicants reserve the right to pursue the subject matter of these canceled claims in a continuing application, if Applicants so choose, and do not intend to dedicate the canceled subject matter to the public. Reconsideration and allowance of the application and presently pending claims are respectfully requested. In addition, Applicant does not intend to make any admissions regarding any other statements in the Office Action that are not explicitly referenced in this response.

I. Examiner Interview

Applicant first wishes to express his sincere appreciation for the time that Examiners Laye and Yu spent with Applicant's Attorney Anthony Bonner during a telephone discussion on July 14, 2005 regarding the outstanding Office Action. More specifically Mr. Bonner discussed differences between claim 1 and the cited art. While no agreement was met, the Examiners seemed to indicate that amending claim 1 to more clearly recite that the television program schedule includes "at least one currently scheduled television program... scheduled for broadcast to a plurality of users at a predetermined current time, and at least one future television program... being scheduled for broadcast to a plurality of users at a predetermined later time." Applicant submits that the included amendments comply with the Examiners' request. Thus,

Applicant respectfully requests that Examiner Laye carefully consider this response and the amendments recited herein.

II. Objection to Specification

The Office Action indicates that an amendment made in a previous response introduces "new matter" into the disclosure. The Office Action states that under 35 U.S.C. §132(a) no amendment shall introduce new matter into the disclosure of the invention. While not addressing the issue of whether a previous amendment introduces new matter into the disclosure, Applicant removes the disputed amendment to comply with the Office Action's request.

III. Rejections Under 35 U.S.C. §102

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983).

A. Claim 1 is Patentable Over *Ellis*

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by WO 99/60790 to Ellis ("*Ellis*"). Applicant respectfully traverses this rejection for at least the reason the *Ellis* fails to disclose, teach, or suggest all of the claimed elements of claim 1, as required. Claim 1, as amended recites:

> A method for providing media services via an interactive media services client device coupled to a programmable media services server device, said method comprising:
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> ***providing a user*** with an interactive program guide (IPG) the IPG ***including a television program schedule***, the television program schedule including at least one currently scheduled television program,

said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, and ***at least one future television program***, said future television program being ***scheduled for broadcast to a plurality of users at a predetermined later time***;

receiving user input requesting said future television program; and

providing said user with said future television program prior to said later time.

Applicant submits that *Ellis* fails to disclose a "method for providing media services via an interactive media services client device coupled to a programmable media services server device, said method comprising: ***providing a user*** with an interactive program guide (IPG) the IPG ***including a television program schedule***, the television program schedule including at least one currently scheduled television program, said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, and ***at least one future television program***, said future television program being ***scheduled for broadcast to a plurality of users at a predetermined later time***..." as recited in claim 1, as amended. For at least this reason, Applicant submits that claim 1, as amended is allowable.

B. Claim 19 is Patentable Over *Ellis*

The Office Action indicates that claim 19 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by WO 99/60790 to Ellis ("*Ellis*"). Applicant respectfully traverses this rejection for at least the reason the *Ellis* fails to disclose, teach, or suggest all of the claimed elements of claim 19, as required. Claim 19, as amended recites:

A media services device for providing a client device with a media presentation, said device comprising:

logic configured to ***receive from a cable television system (CTS) a television program schedule***, said television program schedule including

at least one currently scheduled television program, said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, and ***at least one future television program***, said future television program being ***scheduled for broadcast to a plurality of users at a predetermined later time***;

logic configured to provide said client device with information related to an interactive program guide (IPG) that includes said television program schedule; and

logic configured to provide said client device with said future television program prior to said later time in response to receiving user input requesting said future television program.

Applicant submits that *Ellis* fails to disclose a "media services device for providing a client device with a media presentation, said device comprising: logic configured to ***receive from a cable television system (CTS) a television program schedule***, said television program schedule including at least one currently scheduled television program, said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, and ***at least one future television program***, said future television program being ***scheduled for broadcast to a plurality of users at a predetermined later time***..." as recited in claim 19, as amended. For at least this reason, Applicant submits that claim 19, as amended is allowable.

C. Claims 3, 7, 8, 10 – 12, 18, 20, 25, 26, 28, and 29 are Patentable Over *Ellis*

In addition, dependent claims 3, 7, 8, 10 – 12, and 18 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. Further, dependent claims 20, 25, 26, 28, and 29 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 19. *In re Fine*, *Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

IV. Rejections Under 35 U.S.C. §103

In order for a claim to be properly rejected under 35 U.S.C. §103, the teachings of the cited art reference must suggest all features of the claimed invention to one of ordinary skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981). Further, "[t]he PTO has the burden under section 103 to establish a prima facie case of obviousness. It can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." *In re Fine*, *Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

A. Claims 2 and 22 are Patentable Over *Ellis* in View of *Kostreski*

The Office Action indicates that claims 2 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis* in view of U.S. patent No. 5,534,912 to Kostreski ("*Kostreski*"). Applicants respectfully traverse this rejection for at least the reason that *Ellis* in view of *Kostreski* fails to disclose, teach, or suggest all of the elements of claims 2 and 22. More specifically, claim 2 is believed to be allowable for at least the reason that this claim depends from allowable independent claim 1. Additionally, claim 22 is believed to be allowable for at least the reason that this claim depends from allowable independent claim 19. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

B. Claims 4 and 21 are Patentable Over *Ellis*

The Office Action indicates that claims 4 and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis*. Applicants respectfully traverse this rejection for at least the reason that *Ellis* fails to disclose, teach, or suggest all of the elements of claims 4 and 21. More specifically, claim 4 is believed to be allowable for at least the reason that this claim depends from allowable independent claim 1. Additionally, claim 21 is believed to be allowable for at least the reason that this claim depends from allowable independent claim 19. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

C. Claims 5, 6, 23, and 24 are Patentable Over *Ellis* in View of *Matthews*

The Office Action indicates that claims 5, 6, 23, and 24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis* in view of U.S. patent No. 5,815,145 to Matthews III ("*Matthews*"). Applicants respectfully traverse this rejection for at least the reason that *Ellis* in

view of *Matthews* fails to disclose, teach, or suggest all of the elements of claims 5, 6, 23, and 24. More specifically, claims 5 and 6 are believed to be allowable for at least the reason that this claim depends from allowable independent claim 1. Additionally, claims 23 and 24 are believed to be allowable for at least the reason that this claim depends from allowable independent claim 19. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

D. Claims 9, 15, 16, 17, 27, 32, 33, and 34 are Patentable Over *Ellis* in View of *Girard*

The Office Action indicates that claims 9, 15, 16, 17, 27, 32, 33, and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Ellis* in view of U.S. patent No. 5,751,282 to Girard ("*Girard*"). Applicants respectfully traverse this rejection for at least the reason that *Ellis* in view of *Girard* fails to disclose, teach, or suggest all of the elements of claims 9, 15, 16, 17, 27, 32, 33, and 34. More specifically, claims 9, 15, 16, 17 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. Additionally, claims 27, 32, 33, and 34 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 19. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

V. Official Notice Cited

In the "Response to Arguments" section, the Office Action states

> [l]astly, in the event that Applicant intends "publicly broadcast" to mean the program is provided prior to a later scheduled broadcast time in which it will be available to non-subscribers, the Examiner asserts this

> final argument. The Examiner takes Official Notice that it is notoriously well-known in this art for newly released programs to be available on VOD, Pay-Per-View, or any other similar systems before they are available as non-pay television broadcasts... (OA beginning p. 3, last paragraph).

Applicant respectfully traverses this rejection, and statement of Official Notice for at least the reason that the noticed fact is not capable of instant and unquestionable demonstration as being well-known at the time of invention. Applicant assert that the basis for the finding (in addition to the finding itself) does not include specific factual findings predicated on sound technical and scientific reasoning to the support the conclusion (as required), evidencing it not being well-known. As such, a statement of Official Notice is unwarranted. As recited in MPEP §2144.03(A), "it [is] not...appropriate for the Office Action to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." For at least these reasons, Applicants respectfully traverse the Office Action's statement of Official Notice.

VI. New Claim 36 is Allowable

Additionally, Applicant adds new claim 36. New claim 36 is believed to be allowable for at least the reason that the cited art fails to disclose, teach, or suggest at least the following:

> A media services client device for providing a user with a media presentation, said device comprising:
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> logic configured to receive ***from a cable television system (CTS)*** a television program schedule, said television program schedule including at least one currently scheduled television program, said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, and at ***least one future television program, said future television program being scheduled for broadcast to a plurality of users at a predetermined later time***;

logic configured to provide said user with an interactive program guide (IPG) configured to display the television program schedule; and

logic configured to provide said user with said future television program prior to said later time in response to receiving user input requesting said future television program.

Applicant respectfully requests allowance of new claim 36 for at least the reason that the cited art fails to disclose, teach, or suggest a "a media services client device for providing a user with a media presentation, said device comprising: logic configured to receive ***from a cable television system (CTS)*** a television program schedule, said television program schedule including at least one currently scheduled television program, said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, and at ***least one future television program, said future television program being scheduled for broadcast to a plurality of users at a predetermined later time***..." as recited in new claim 36.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Further, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

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